

**REPLY UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
TECHNOLOGY CENTER 1700
Docket No. 1293.1071DDC**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Jung-wan KO et al.

Application No. 10/779,767

Group Art Unit: 2627

Confirmation No. 1606

Filed: February 18, 2004

Examiner: Kim Kwok Chu

For: RECORDING MEDIUM FOR STORING WRITE PROTECTION INFORMATION AND
WRITE PROTECTION METHOD THEREOF

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Final Office Action mailed February 5, 2009 and the Advisory Action mailed May 13, 2009, and having a period for response set to expire on June 15, 2009 with a one-month extension of time (June 13 being a Saturday).

Pursuant to 1296 OG 67 and 1303 OG 21, the applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

REMARKS

The traversals of the obviousness-type double patenting rejections are contained in the Response filed on October 8, 2008, and are not again repeated.

Claims 1 and 13 have been rejected under 35 U.S.C. §102(e) as being anticipated by Ro et al. (U.S. Patent 6,288,989), hereinafter "Ro." The Applicants respectfully traverse the rejection and request reconsideration consistent with the arguments presented in the Response filed on October 8, 2008 and the Response filed on April 6, 2009.

Regarding the rejection of independent claim 1, claim 1 recites that "a plurality of identical write protection information is stored in physically separate locations." On page 3 of the Office Action mailed February 5, 2009, the Examiner states that, though the claim recites a plurality of identical write information, the write information is, in fact, not identical because each of the write information is recorded in a different location (as illustrated in FIG. 8). That is, according to the Examiner, no two pieces of simultaneously existing data can be identical because, of course, no two pieces of simultaneously existing data can have a same physical address (i.e., be occupying a same storage space). However, the different addresses shown in FIG. 8 are not data, but physical locations of the identical information that necessarily have different addresses. To one of ordinary skill in the art, data is identical when the content of that data is the same even if recorded at different addresses. As the content of data does not include a location of where the data is stored, it is respectfully submitted that the claim provides a plurality of identical write protection information, as recited. In contrast, Ro teaches a plurality of different (i.e., having different content) overwriting prevention information for each program, each different overwriting prevention information being stored just once. Though Ro discloses the recording of a plurality of overwrite prevention information such that overwrite prevention information is recorded for each recorded audio/video program (FIG. 6 and column 8, lines 13-22), Ro does not teach a recording of a plurality of identical overwrite prevention information.

That is, even assuming arguendo the passwords in Ro are the same, which the Examiner has not shown necessarily occurs, the passwords do not correspond to the write protection information. On page 9 of the Office Action mailed February 5, 2009, the Examiner asserts that the overwriting prevention information is only the password. However, such a statement is directly and explicitly contradicted by the reference. That is, Ro explicitly states that the overwriting prevention information is not just the password, but is "a title of the program

recorded on the data area, mode flags of 1 byte, a password and position data indicating a position of the data area on which the program is recorded, etc.” (column 8, lines 18-22; and column 8, lines 34-36). Moreover, to use the overwriting prevention information, more than just the password is required since without the remaining data it is not possible to locate the protected data area. That is, as the overwriting prevention information corresponds to specific programs, the password alone does not prevent any overwriting without reference to the title of the program and the position data (column 8, lines 36-41). However, the title of the program and the position data are necessarily different for each of the overwriting prevention information in Ro.

On page 2 of the Advisory Action mailed May 13, 2009, the Examiner states that the claim must recite that the prohibiting of the writing of data is done “without reference to the title of the program and the position data.” However, the title of the program and the position data are explicitly provided in Ro as included in the overwriting prevention information. Thus, the Applicants’ reference to this data is merely to underscore the differences between the present claim and Ro, and not to limit the present claim. Ro clearly discloses (as illustrated in FIG. 6) a plurality of overwriting prevention information that are not identical due at least to the necessary differences in the title of the program and the position data. Moreover, Ro does not require that the password be the same for all titles since the password is input for each recording (FIG. 2C). Therefore, the Applicants respectfully submit that Ro fails to disclose, implicitly or explicitly, a plurality of identical write protection information, as recited in claim 1.

Regarding the rejection of independent claim 13, it is noted that claim 13 recites a recording medium having at least two write protection information stored “at the same time.” In contrast, Ro teaches recording overwrite prevention information, from among the plurality of overwriting prevention information, when the corresponding audio/video program is recorded (column, 8, lines 31-36). That is, the plurality of overwriting prevention information is not recorded at the same time, as in claim 13, but rather at separate times based on the recording of the corresponding audio/video program. It is further noted that, contrary to the Examiner’s misinterpretation of “at the same time” on page 4 of the Office Action mailed February 5, 2009, to one of ordinary skill in the art, the recording of the at least two write protection information at the same time means that the at least two write protection information are recorded in the same recording operation as each other. Therefore, the Applicants respectfully submit that Ro fails to

disclose, implicitly or explicitly, a storage of a plurality of write protection information in a single recording operation, as recited in claim 13.

Claims 8 and 9 have been under 35 U.S.C. §102(b) as being anticipated by Braithwaite et al. (U.S. Patent 5,644,444), hereinafter "Braithwaite." The Applicants respectfully traverse the rejection and request reconsideration.

Regarding the rejection of independent claim 8, it is noted that claim 8 recites, "the recording medium is set to a write protection state... when the finalization for writing on the Lead-in area and the Lead-out area has been completed." In contrast, Braithwaite does not disclose a finalization of the Lead-in and Lead-out area. On page 5 of the Office Action mailed February 5, 2009, the Examiner states that the claimed Lead-in and Lead-out area can be changed. That is, according to the Examiner, the claimed "finalization" is a meaningless term that has no impact on the recited subject matter. However, to one of ordinary skill in the art, finalization is a state in which the area and a table of contents therefor cannot thereafter be changed (as evidenced by the Computers & Electronics article, "It's Not Final 'Til It's... Well, Finalized," Vol. 17, Issue 4, pp 38-39 (April 2006), enclosed with the Amendment After Final filed on April 6, 2009, which states, "When a burner finalizes a disc, it means you can't add to it or rearrange the content"). That is, after finalization, the claimed Lead-in and Lead-out areas cannot be changed, as is understood by one of ordinary skill in the art, and such a detailed definition of finalization that is clearly understood by one of ordinary skill in the art need not be recited in the claim, contrary to the Examiner's assertion on page 2 of the Advisory Action mailed May 13, 2009.

Moreover, on page 2 of the Advisory Action, the Examiner states that when the protection flag is set in Braithwaite, the recording disk is finalized. However, the protection mode in Braithwaite can be changed "at any time" (column 7, lines 60-61), which is allowable in such discs that can be used without finalization, like the magnetic media described in Braithwaite. In contrast, when finalization is used in a medium, allowing such changes would necessarily allow changes in a table of contents or like structure, which is prohibited after finalization. Therefore, the Applicants respectfully submit that Braithwaite fails to disclose, implicitly or explicitly, a finalizing of a Lead-in area and Lead-out area, as recited in claim 8.

Regarding the rejection of claim 9, it is noted that this claim depends from claim 8 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that claim 9

recites a recognition switch on the case for write protection. In contrast, Braithwaite discloses a shutter 18 (FIG. 3) on the disk cartridge to protect the head access opening when the cartridge is not in use (column 4, lines 34-37). That is, the shutter 18 does not relate to a write protection state, and is constant (i.e., closed when the cartridge is not in use) irrespective of the write protection state. Therefore, the Applicants respectfully submit that Braithwaite fails to disclose, implicitly or explicitly, a recognition switch, as recited in claim 9.

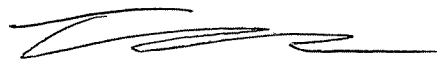
Claims 2, 4, and 5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Ro (U.S. Patent 6,288,989) and further in view of Yonemitsu et al. (U.S. Patent 5,793,779), hereinafter "Yonemitsu." Regarding the rejection of independent claim 2, it is noted that claim 2 was amended in the Amendment filed on January 4, 2008 to incorporate the allowable subject matter of claim 3, which is rejected only on nonstatutory double patenting grounds. Therefore, the Applicants respectfully submit that Ro in view of Yonemitsu fails to disclose, implicitly or explicitly, the invention as recited in claim 2, and respectfully request that the Examiner withdraw the rejection on the record. Regarding the rejection of claim 4, it is noted that this claim depends from claim 2 and is, therefore, allowable for at least the reasons set forth above. Regarding the rejection of claim 5, as with claim 2, claim 5 has been amended to incorporate the allowable subject matter of claim 6, which is rejected only on nonstatutory double patenting grounds. Therefore, the Applicants respectfully submit that Ro in view of Yonemitsu fails to disclose, implicitly or explicitly, the invention as recited in claim 5, and respectfully request that the Examiner withdraw the rejection on the record.

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Respectfully submitted,

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Date: 6/15/09

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